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# UNITED STATES BANKRUPTCY COURT

## DISTRICT OF NEVADA

In Re:

DOUBLE JUMP, INC.,

Affects:

- ☐ All Debtors
- ☐ Double Jump, Inc. (19-50102-btb)
- ☐ Dora Dog Properties, LLC (19-50103-btb)
- ☐ Dog Blue Properties, LLC (19-50104-btb)
- ☐ Brandy Boy Properties, LLC (19-50105-btb)
- ☐ 475 Channel Road, LLC (19-50106-btb)
- ☐ Park Road, LLC (19-50108-btb)
- ☐ 140 Mason Circle, LLC (19-50109-btb)
- ☒ DC Solar Solutions, Inc. (19-50130-btb)
- ☒ DC Solar Distribution, Inc. (19-50131-btb)
- ☐ DC Solar Freedom, Inc. (19-50135-btb)

Debtors.

Case No. 19-50102-btb – LEAD CASE

Chapter 7

Jointly administered

**OBJECTION TO MOTION TO  
 APPROVE PROPOSED  
 STIPULATION, AGREEMENT AND  
 STIPULATED ORDER BY AND  
 BETWEEN TRUSTEE AND  
 INTERNATIONAL SPEEDWAY  
 CORPORATION, *ET AL.* WITH  
 RESPECT TO MOTION FOR RELIEF  
 FROM THE AUTOMATIC STAY OR,  
 IN THE ALTERNATIVE, TO  
 COMPEL REJECTION OF  
 EXECUTORY CONTRACTS AND  
 UNEXPIRED LEASES**

**Hearing Date: April 10, 2019**

**Hearing Time: 10:00 a.m.**

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Solarmore Management Services, Inc.<sup>1</sup> (“Solarmore”), by and through its undersigned counsel and on behalf of the Funds in its capacity as Managing Member, hereby objects to the *Motion to Approve Proposed Stipulation, Agreement and Stipulated Order by and Between Trustee and International Speedway Corporation, et al. with Respect to Motion for Relief from the Automatic Stay or, in the Alternative, to Compel Rejection of Executory Contracts and Unexpired Leases* (the “Stipulation”). While Solarmore does not object to limited relief for International Speedway Corporation (“ISC”) to terminate its leases and sponsorship agreements, Solarmore objects to and has concerns about the facts set forth in the Stipulation.

The Stipulation, and the attached order, seek to bind the Trustee and the estates to facts that the Trustee has admitted that she does not know. Further, Solarmore has evidence that calls these statements into question. The following issues should give the Court pause in entertaining the request to enter the order attached to the Stipulation:

1. ISC states that it entered into a sublease with DC Solar Distribution, Inc. (“Distribution”) on December 28, 2016. *Declaration of Joel Chitwood, in Support of Motion for Relief from the Automatic Stay or, in the Alternative, to Compel Rejection of Executory Contracts and Unexpired Leases Filed by International Speedway Corporation, et al.* [ECF No. 186] (“Chitwood Declaration”), ¶ 8 & Ex. A. Pursuant to the copy of that sublease attached to the Chitwood Declaration, it was a sublease for equipment covered by a November 29, 2016 Mobile Solar Equipment Lease between Distribution and Solar Eclipse Investment Fund XXVI, LLC (“Fund XXVI”). Fund XXVI is a Solarmore managed fund with identified mobile solar generators (“MSGs”) associated with it. The Stipulation states that ISC subleased 200 MSGs under this agreement; however, none of the MSGs that are located at ISC properties, based on the vehicle identification numbers (“VINs”) provided by both ISC

<sup>1</sup> Solarmore is the managing member of Solar Eclipse Investment Fund V, LLC; Solar Eclipse Investment Fund VI, LLC; Solar Eclipse Investment Fund VII, LLC; Solar Eclipse Investment Fund VIII, LLC; Solar Eclipse Investment Fund X, LLC; Solar Eclipse Investment Fund XI, LLC; Solar Eclipse Investment Fund XII, LLC; Solar Eclipse Investment Fund XIV, LLC; Solar Eclipse Investment Fund XV, LLC; Solar Eclipse Investment Fund XVI, LLC; Solar Eclipse Investment Fund XVII, LLC; Solar Eclipse Investment Fund XVIII, LLC; Solar Eclipse Investment Fund XIX, LLC; Solar Eclipse Investment Fund XXI, LLC; Solar Eclipse Investment Fund XXII, LLC; Solar Eclipse Investment Fund XXIII, LLC; Solar Eclipse Investment Fund XXIV, LLC; Solar Eclipse Investment Fund XXVI, LLC; Solar Eclipse Investment Fund XXVIII, LLC; and Solar Eclipse Investment Fund XXXI, LLC (collectively, the “Funds”).

and located by GA Global Partners at ISC properties, are associated with Fund XXVI. Instead, the MSGs located at the ISC properties are associated with 9 other Solarmore managed funds and 7 other funds or owners that are not affiliated with Solarmore. For example, Fund IV, Fund XI, and Fund XVI collectively have 25 units located at ISC's properties. Those funds do have leases with Distribution for their MSGs. However, none of the ISC leases reference any of the leases between Distribution and these funds as being the master leases under which they possess the Fund IV, Fund XI, and Fund XVI MSGs. The same is true of roughly 170 additional MSGs. Solarmore has no information on how ISC came to possess the MSGs that are not affiliated with Fund XXVI, or under what authority ISC possesses those MSGs. Further, ISC has not provided any documentation showing that it was leasing MSGs pursuant to any other sublease.

2. Additionally, the sublease that is attached to the Chitwood Declaration does not match the sublease in possession of the Fund XXVI investor. Attached hereto as **Exhibit 1** is a copy of the sublease between Distribution and Fund XXVI that Progressive Casualty Insurance Company ("Progressive"), the 99% member of Fund XXVI, received. It is a fully executed sublease agreement assigned the same number as the sublease attached to the Chitwood Declaration, but dated December 22, 2016. Exhibit 1 also contains substantive provisions that differ from the sublease attached to the Chitwood Declaration. As an example, in the first two numbered sections of the subleases the last sentence of each section in the sublease presented by ISC does not exist in the sublease given to Fund XXIV. *Compare* Chitwood Declaration, Ex. A and Exhibit 1. There are additional differences. Without going through each discrepancy, Solarmore raises the issue simply to demonstrate that even the sublease under which ISC came to possess some of the MSGs on its properties is in question.
3. ISC has also provided counsel for Solarmore and Progressive with acceptance certificates that purport to set out the VINs for the MSGs that ISC received from Distribution pursuant to its subleases. True and correct copies of ISC's acceptance certificates related to the Fontana, Kansas, and Talladega properties are attached hereto as **Exhibit 2**. Solarmore, as managing member of Fund XXVI, also has copies of acceptance certificates, signed by ISC

representatives, purporting to relate to these same locations. True and correct copies of Solarmore's acceptance certificates signed by ISC are attached hereto as **Exhibit 3**. As the Court can see, these acceptance certificates do not match. They have different first pages, dates, and completely different lists of VINs. While ISC's acceptance certificates match the MSGs that GA Global has located at these three ISC properties, none of the units owned by the Solarmore managed funds are located at these three properties. There has been no explanation for the discrepancy, or why a sublease that purports to lease MSGs owned by Fund XXVI to three specific properties was fulfilled by providing MSGs owned by other funds to two different properties. There has also been no explanation for why ISC's acceptance certificates were dated in 2018 when the sublease with Distribution was executed in 2016. In contrast, the acceptance certificates provided to Fund XXVI were all executed by ISC in early 2017, within a few months of the ISC sublease.

4. The addenda to ISC's sublease also demonstrate inconsistencies. The addenda identify a December 30, 2016 sublease between ISC and Distribution. The sublease attached to the Chitwood Declaration is dated December 28, 2016. Given that the December 28 date is repeated in Paragraph 3 of ISC's sublease, it is unclear whether this inconsistency could be a simple typographical error, or a reference to an entirely different sublease altogether.

All of the foregoing creates issues of fact that have not been explained to this Court. If ISC insists on having factual recitations that are binding on the Trustee and the estates, then such a demand would require an evidentiary hearing and discovery. None of that has occurred given the fact that these matters have proceeded on a motion for stay relief and, now, a motion for approval of a stipulation, which are summary proceedings. *See In re Luz International, Ltd.*, 219 B.R. 837 (9th Cir. B.A.P. 1998) ("The hearing [on a motion for relief from stay] is not, nor was it intended to be, the forum in which to determine the merits of the claims presented in support of relief from the automatic stay."). ISC, by asking for the detailed factual stipulations, has, in essence, asked this Court for declaratory relief relating to the subleases and the sponsorship agreements without submitting to the rigor of an adversary proceeding. *See Fed. R. Bankr. P. 7001(2)*. That is simply

1 not necessary for the relief that ISC seeks, and is well outside of the scope of the agreement put  
2 forth on the record by the Trustee's counsel.

3 Finally, these factual recitations should not be included in the order, where they can be used  
4 by ISC to bind the estates and third parties. A scenario could be imagined where ISC defends  
5 against a claim by the estates or a third-party based on these stipulated facts. That would amount  
6 to ISC obtaining a de facto release of claims even where such a release has not been requested or  
7 agreed to by the Trustee. A release is also inappropriate here where so many facts are unknown in  
8 this case.

9 Based on the foregoing, Solarmore requests that the Court enter the order attached hereto  
10 as **Exhibit 4**.

11 DATED this 9<sup>th</sup> day of April 2019.

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